IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3583 OF 2004

Mrs. Shraddha Shailendra Patil ... Petitioner

Versus

The State of Maharasthra and Ors. Respondents

Mr. N.V. Bandiwadekar for Petitioner.

Mrs. S.S. Bhende, A.G.P. for R. Nos. 1 and 2.

CORAM : F.I. REBELLO &
S.P. KUKDAY,JJ.
DATED : FEBRUARY 25, 2005

P.C.

. Rule. Heard forthwith.

. It is the case of the Petitioner that they were first appointed after proper selection by order dated 1.8.1994. Thereafter they were continued. The last such approval was for the academic year 2002-2003. The approval was granted from time to time. For the first time, approval was refused by letter dated 5.6.2003. The Petitioner challenged the same before this court by filing writ Petition No. 6150 of 2003. This court by judgment dated 3.10.2003 remanded the matter in terms as set out therein.

. On remand the Deputy Director of Education by his order dated 27.2.2004 and 31.3.2004 held that there is backlog of ST 30, VJNT 2 and considering

that, cancelled the approval with effect from 30.4.2002. It is this order which is the subject matter of the present petition.

. We have heard the leaned counsel for the parties as also respondents. The Petition is opposed by the Respondent on the ground that there is backlog. They have annexed roster. The vacancy is of 1994-1995. The real question is whether at the time of the Petitioners appointment who belongs to O.B.C. category, whether there were any available seats for O.B.C. The position of the management is set out in the order impugned. That would show that in the year 1994-95 that there was one post for O.B.C. From the order we find that the subsequent to the year 1996, more teachers have been appointed against the O.B.C. category. If there has been subsequent appointments against posts reserved for O.B.C. that cannot be held against the petitioner who was appointed on 1.8.1994 when there was post available for O.B.C. Considering the above, in our opinion, it wold be unjust to cancel the appointment of the Petitioner herein. At the highest, even if there be now no vacancy in the OB.C. category, that can be adjusted against future vacancies.

. The Management is therefore directed to adjust

the Petitioner against a post for O.B.C. The Respondent authority to grant approval. If there be no vacancy, then to adjust it against future vacancies for O.B.C. categories. This direction is issued purely on the peculiar facts of this case. In fact we have found that there was vacancy available for the year 1994-95. For the aforesaid reasons, we make the petition absolute in terms of Prayer Clause (b) and (c). No order as to costs.

(F.I. REBELLO,J.)

(S.P. KUKDAY,J.)